

## **REMARKS**

Claims 1-42 are pending in the application. It is gratefully acknowledged that Claims 28, 41 and 42 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. The Examiner has objected to Claims 3, 6, 10, 13, 21, 24, 27, 32 and 35 because of informalities. The Examiner has provisionally rejected Claims 1, 4, 8, 11, 22, 25, 30 and 33 under the judicially created doctrine of obviousness-type double patenting and being unpatentable over copending Application No. 09/866,309 to Yun et al. The Examiner has rejected Claims 1, 4, 8, 11, 15, 16 and 18 under 35 U.S.C. §102(e) as being anticipated by Esteves et al. (U.S. Patent 6,205,129). The Examiner has rejected Claims 2, 3, 5-7, 9, 10, 12-14, 17, 19-27 and 29-40 under 35 U.S.C. §103(a) as being unpatentable over Esteves et al. in view of Proposed HDR Standard (3GPP2-C00-20000327).

Regarding the objections to Claims 3, 6, 10, 13, 21, 24, 27, 32 and 35 because of informalities, the Examiner states that the “predetermined slot” does not equate with the number of options given. Claims 3, 6, 10, 13, 21, 24, 27, 32 and 35 have been amended herein to address these objections. Additionally, amendments have been made to the claims to read “at least one predetermined slot”. Based on at least the foregoing, withdrawal of the objections is respectfully requested.

The Examiner has provisionally rejected Claims 1, 4, 8, 11 and 30, and 22, 25 and 33 under the judicially created doctrine of obviousness-type double patenting and being unpatentable over copending Application No. 09/866,309 to Yun et al. Applicants respectfully disagree on several grounds.

First, each of Claims 1, 4, 8 and 11 recite a data rate control (DRC) request indicator (DRI) bit, an element not recited in any of the claims of Yun et al. Based on at least this distinction, the rejection should be withdrawn.

Second, Claim 30 recites “checking a last slot of the transmission period”. This element

is not recited in any of Claims 1, 7 or 22 of Yun et al. Based on at least this distinction, the rejection should be withdrawn.

Third, each of Claims 22, 25 and 33 recite “detecting the length of the packet data transmitted to the first group of ATs for the first transmission period from the preamble”. This element is not recited in any of Claims 15, 21 or 22 of Yun et al. Based on at least this distinction, the rejection should be withdrawn.

Fourth, each of Claims 22 and 25 recite “checking a last slot of the first transmission period”. This element is not recited in any of Claims 15, 21 or 22 of Yun et al. Based on at least this distinction, the rejection should be withdrawn.

Finally, it is respectfully submitted that until the claims of the Yun et al. publication are in condition for allowance, the provisional rejections are premature.

Based on at least the foregoing, withdrawal of the rejections based on the judicially created doctrine of obviousness-type double patenting is respectfully requested.

Regarding the rejection of independent Claims 1, 4, 8, 11 and 15 under §102(e), the Examiner states that Esteves et al. anticipates all of the elements of the claims. Esteves et al. discloses a method and apparatus for variable and fixed forward link rate control in a mobile radio communications system. Each of Claims 1, 4, 8, 11 and 15 recites “a data rate control (DRC) request indicator (DRI) bit”. The Examiner equates the “balanced state bit” of Esteves et al. to the DRI bit of the present application. The DRI bit of the claims of the present application is a bit used to request data rate control. The “balanced state bit” of Esteves et al. indicates that the mobile station is reliably receiving the DRC messages. Clearly, the “balance state bit” cannot anticipate the DRI bit. Based on at least the foregoing, withdrawal of the rejections under §102(e) is respectfully requested.

Regarding the rejection of independent Claims 22, 25, 30, 33 and 37 under §103(a), the

Examiner states that Esteves et al. in view of the Proposed HDR Standard renders all of the elements of the claims unpatentable. Each of independent Claims 22, 25, 30, 33 and 37 have been amended to recite that the DRC is transmitted in the at least one predetermined slot, said at least one predetermined slot located after the packet data transmission. It is respectfully submitted that Esteves et al. and Proposed HDR Standard, either alone or in combination, does not disclose that the DRC is transmitted after the packet data but before the end of the transmission period or the last slot. Based on at least the foregoing, withdrawal of the rejections of Claims 22, 25, 30, 33 and 37 under §103(a) is respectfully requested.

Regarding the rejection of independent Claim 40 under §103(a), the Examiner states that Esteves et al. in view of the Proposed HDR Standard renders all of the elements of this claim unpatentable. Claim 40 recites transmitting reverse rate indicators (RRIs) and pilot signals to the AN in a predetermined first group of slots among a plurality of multiplexed slots by the first group of ATs if the DRC information is not transmitted, and transmitting RRIs and pilot signals to the AN in a second group of slots by the second group of ATs if the DRC information is not transmitted, the second group of slots being the remaining slots from the plurality of multiplexed slots minus the first group of slots. That is, the first group of ATs transmit in a first group of slots and the second group of ATs transmits in a second group of slots, the second group of slots being a remainder of the total slots minus the first group of slots after the multiplexing. It is respectfully submitted that Esteves et al. and Proposed HDR Standard, either alone or in combination, does not disclose the DRC transmission in this manner. Based on at least the foregoing, withdrawal of the rejection of Claim 40 under §103(a) is respectfully requested.

Independent Claims 1, 4, 8, 11, 15, 22, 25, 30, 33, 37 and 40 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 2, 3, 5-7, 9, 10, 12-14, 16-21, 23, 24, 26, 27-29, 31, 32, 34-36, 38, 39 and 41-42, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2, 3, 5-7, 9, 10, 12-14, 16-21, 23, 24, 26, 27-29, 31, 32, 34-36, 38, 39 and 41-42 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1-42, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. Farrell", written in a cursive style.

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